

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA

for Roanoke
APR 30 2012
FILED

JULIA C. DUDLEY, CLERK
BY: *M. H.* DEPUTY CLERK

WILLIAM T. WADE,) Civil Action No. 7:12-cv-00195
Petitioner,)
)
v.) MEMORANDUM OPINION
)
COMMONWEALTH OF VIRGINIA,) By: Hon. Jackson L. Kiser
Respondent.) Senior United States District Judge

William T. Wade, a Virginia inmate proceeding pro se, filed a document in which he states that he is appealing a decision from the Circuit Court for Franklin County, Virginia, to this court. Petitioner filed a “motion to vacate” his state-court conviction with the Circuit Court for Franklin County, and the Circuit Court told petitioner that it does not have jurisdiction to adjudicate the motion. Petitioner filed a notice of appeal to this court because petitioner believes the Circuit Court has jurisdiction to adjudicate the motion to vacate.

I do not have appellate jurisdiction to review state court decisions. That jurisdiction is vested in a state’s appellate courts and the Supreme Court of the United States. A person in custody because of a state court judgment may ask a federal district court to review a conviction by filing a habeas corpus petition, pursuant to 28 U.S.C. § 2254. I decline to construe the notice of appeal as a 28 U.S.C. § 2254 petition for a writ of habeas corpus because petitioner’s submissions do not substantially follow the form petition and are not signed under penalty of perjury. Rule 2(c)(5)-(d), Rules Governing § 2254 Cases. Accordingly, I dismiss this action without prejudice for lack of jurisdiction and direct the Clerk to send petitioner a form § 2254 petition.

The Clerk is directed to send a copy of this Memorandum Opinion and the accompanying Order to petitioner.

ENTER: This 30th day of April, 2012.

Jackson L. Kiser
Senior United States District Judge